

1                   IN THE UNITED STATES DISTRICT COURT  
2                   FOR THE NORTHERN DISTRICT OF ILLINOIS  
3                   EASTERN DIVISION

4                   TAMMY JO LONG, an Illinois         )  
5                   resident, and LUXURY PROPERTIES, )  
6                   LLC,                                     )  
7   )  
8   )  
9   )  
10                  Plaintiffs,                             )  
11                  )   )  
12                  v.   ) No. 17 C 2756  
13                  )   )  
14                  BANK OF AMERICA, N.A.,                 ) Chicago, Illinois  
15                  )   )  
16                  Defendant.                             ) June 7, 2017  
17                  )   )  
18                  )   ) 9:30 a.m.  
19                  )

20                   TRANSCRIPT OF PROCEEDINGS  
21                   BEFORE THE HONORABLE JORGE L. ALONSO

22                   APPEARANCES:

23                  For the Plaintiffs:                   PEDERSEN & HOUPt, P.C.  
24                  BY: MR. BEVIN MEGAN BRENNAN  
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4                  For the Defendant:                   WINSTON & STRAWN LLP  
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1 (Proceedings had in open court:)

2 THE CLERK: 17 C 2756, Long v. Bank of America.

3 MR. PUSTILNIK: Good morning, your Honor. David  
4 Pustilnik on behalf of Bank of America.

5 MS. BRENNAN: Bevin Brennan on behalf of the  
6 plaintiffs.

7 THE COURT: We've got two motions, correct? No. 16  
8 is the defendant's motion for leave to file an oversized brief  
9 in support of its motion. That motion is going to be granted.  
10 There's no objection?

11 MS. BRENNAN: No objection.

12 THE COURT: All right. 16 is granted.

13 I'll set out a briefing schedule on 15. And that's  
14 the motion to --

15 MR. PUSTILNIK: Dismiss.

16 THE COURT: -- dismiss?

17 MR. PUSTILNIK: Correct.

18 THE COURT: And --

19 MR. PUSTILNIK: There's also a motion to file a  
20 document under seal, and it's been preliminarily filed under  
21 seal at this point. It's a confidential agreement that was  
22 entered into between the parties three years ago that is now  
23 the subject of the current litigation, plaintiffs' breach of  
24 contract claim.

25 THE COURT: Right. And as such, it's an agreement

1 that I'm going to have to consider, correct?

2 MR. PUSTILNIK: Correct.

3 MS. BRENNAN: I -- I apologize. I thought we were  
4 going to try to file that not under seal; is that correct? Or  
5 are you looking to keep it under seal? We don't have any  
6 objection to filing it publicly as plaintiffs.

7 MR. PUSTILNIK: Right. But Bank of America would  
8 prefer to file it under seal. And my understanding was there  
9 is no objection to filing it under seal.

10 MS. BRENNAN: There's no objection either way. We  
11 can do it either way.

12 THE COURT: Regardless of the parties' positions, I  
13 believe that it should be filed publicly at this point. It's  
14 something that I have to consider. So No. 17 is going to be  
15 denied. I'm going to ask that it be filed publicly.

16 And I'm trying to remember whether we have discovery  
17 deadlines on the case.

18 MR. PUSTILNIK: There are no deadlines as of yet,  
19 your Honor.

20 MS. BRENNAN: Correct.

21 THE COURT: What's the defense's position?

22 MR. PUSTILNIK: Well, Judge, we would like our Rule  
23 12(b)(6) motion to be ruled on before we get into any  
24 discovery, ideally.

25 THE COURT: Counsel, what's your position?

1 MS. BRENNAN: I don't have an objection to that.

2 THE COURT: And this is an ERISA action?

3 MS. BRENNAN: No.

4 THE COURT: No.

5 Have 26(a)(1)s been exchanged?

6 MR. PUSTILNIK: Not yet, Judge.

7 THE COURT: What do you suggest besides the stay?

8 Two weeks?

9 MS. BRENNAN: Two weeks is fine by me, Judge.

10 MR. PUSTILNIK: That's fine.

11 THE COURT: All right. 26(a)(1)s by 6/21.

12 And in terms of fact discovery, what's the  
13 plaintiffs' position in terms of a timeline?

14 MS. BRENNAN: I can't imagine we would need more than  
15 three or four months on this, Judge, from whenever it starts.

16 THE COURT: Oral discovery on the case too?

17 Depositions?

18 MS. BRENNAN: Yes. Probably four -- four or five  
19 months I guess. I mean, the problem with this case -- and one  
20 of the things that we allege in the complaint is that Bank of  
21 America is pretty non-responsive. But from our perspective,  
22 assuming that they can, you know, get a deponent out, it  
23 shouldn't take very long. It's a relatively simple case.

24 THE COURT: Counsel?

25 MR. PUSTILNIK: Judge, Bank of America will comply

1 with whatever deadlines the Court sets. The issue of  
2 responsiveness will not be a problem in this litigation, so  
3 I'm fine with the deadlines set out by plaintiffs' counsel.

4 THE COURT: All right. Four months? Five months?

5 MS. BRENNAN: Four would be ideal.

6 THE COURT: All right. Four months would take us to?

7 THE CLERK: October 5th.

8 THE COURT: October 5th. And in the meantime, I will  
9 set out the briefing schedule. Counsel, how much time do you  
10 need to respond?

11 MS. BRENNAN: We had agreed to a 28/21 briefing  
12 schedule. I would ask that if I could get 30 instead? I --  
13 after we made that agreement, I looked at the calendar and  
14 that's essentially the day after July 4th. So if I can just  
15 have an extra two days?

16 MR. PUSTILNIK: No problem.

17 THE COURT: 30 and 21?

18 MR. PUSTILNIK: That's fine, Judge.

19 THE CLERK: July 7th for the response; and the reply,  
20 July 28th.

21 MR. PUSTILNIK: And, your Honor, in light of the  
22 Court's rulings today, Bank of America will just file its  
23 memorandum of law in support of its motion to dismiss  
24 separately as a new docket number and then include the  
25 settlement agreement as an attachment if that makes the most

1 sense.

2 MS. BRENNAN: That's fine by us.

3 THE COURT: Makes sense. All right. We'll proceed  
4 that way. So 16 is granted. 17 is denied. And the briefing  
5 schedule is set on No. 15. Discovery to proceed. And I will  
6 set out a date in 90 days for status.

7 THE CLERK: September 6th at 9:30.

8 THE COURT: All right. Thank you.

9 MR. PUSTILNIK: Thank you, your Honor.

10 MS. BRENNAN: Thanks, Judge.

11 (Which were all the proceedings heard.)

12 \* \* \* \* \*

14 I certify that the foregoing is a correct transcript from the  
record of proceedings in the above-entitled matter.  
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16 /s/ Nancy C. LaBella  
17 Official Court Reporter

November 16, 2017

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